manufactured for use in heavy-duty vehicles as defined in 49 CFR part 523.

[76 FR 57492, Sept. 15, 2011]

§ 534.3 Definitions.

(a) *Statutory definitions and terms.* All terms used in 49 U.S.C. Chapter 329 are used according to their statutory meaning.

(b) As used in this part—

''Control relationship'' means the relationship that exists between manufacturers that control, are controlled by, or are under common control with, one or more other manufacturers.

''Predecessor'' means a manufacturer whose rights have been vested in and whose burdens have been assumed by another manufacturer.

''Successor'' means a manufacturer that has become vested with the rights and assumed the burdens of another manufacturer.

§ 534.4 Successors and predecessors.

For purposes of the fuel economy and fuel consumption programs, ''manufacturer'' includes ''predecessors'' and ''successors'' to the extent specified in this section.

(a) Successors are responsible for any civil penalties that arise out of fuel economy and fuel consumption shortfalls incurred and not satisfied by predecessors.

(b) If one manufacturer has become the successor of another manufacturer during a model year, all of the vehicles or engines produced by those manufacturers during the model year are treated as though they were manufactured by the same manufacturer. A manufacturer is considered to have become the successor of another manufacturer during a model year if it is the successor on September 30 of the corresponding calendar year and was not the successor for the preceding model year.

(c)(1) For passenger automobiles and light trucks, fuel economy credits earned by a predecessor before or during model year 2007 may be used by a successor, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Fuel economy credits earned by a predecessor after model year 2007 may be used by a successor, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

(2) For heavy-duty vehicles and heavy-duty vehicle engines, available fuel consumption credits earned by a predecessor after model year 2015, and in model years 2013, 2014 and 2015 if a manufacturer voluntarily complies in those model years, may be used by a successor, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three year restriction on carrying credits backward.

(d)(1) For passenger automobiles and light trucks, fuel economy credits earned by a successor before or during model year 2007 may be used to offset a predecessor's shortfall, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Credits earned by a successor after model year 2007 may be used to offset a predecessor's shortfall, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

(2) For heavy-duty vehicles and heavy-duty vehicle engines, available credits earned by a successor after model year 2015, and in model years 2013, 2014 and 2015, if a manufacturer voluntarily complies in those model years, may be used by a predecessor subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three year restriction on carrying credits backward.

[76 FR 57492, Sept. 15, 2011]

§ 534.5 Manufacturers within control relationships.

(a) If a civil penalty arises out of a fuel economy or fuel consumption shortfall incurred by a group of manufacturers within a control relationship, each manufacturer within that group is jointly and severally liable for the civil penalty.

(b) A manufacturer is considered to be within a control relationship for an entire model year if and only if it is within that relationship on September 30 of the calendar year in which the model year ends.

(c)(1) For passenger automobiles and light trucks, fuel economy credits of a manufacturer within a control relationship may be used by the group of manufacturers within the control relationship to offset shortfalls, subject to the agreement of the other manufacturers, the availability of the credits, and the general three year restriction on carrying credits forward or backward prior to or during model year 2007, or the general five year restriction on carrying credits forward and the general three-year restriction on carrying credits backward after model year 2007.

(2) For heavy-duty vehicles and heavy-duty engines, credits of a manufacturer within a control relationship may be used by the group of manufacturers within the control relationship to offset shortfalls, subject to the agreement of the other manufacturers, the availability of the credits, the general 5-year restriction on carrying credits forward, and the general three year restriction on offsetting past credit shortfalls as specified in the requirements of 49 CFR 535.7.

(d)(1) For passenger automobiles and light trucks, if a manufacturer within a group of manufacturers is sold or otherwise spun off so that it is no longer within that control relationship, the manufacturer may use credits that were earned by the group of manufacturers within the control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits forward or backward prior to or during model year 2007, or the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward after model year 2007.

(2) For heavy-duty vehicles and heavy-duty vehicle engines, if a manufacturer within a group of manufacturers is sold or otherwise spun off so that it is no longer within that control rela-

tionship, the manufacturer may use credits that were earned by the group of manufacturers within the control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits, the general 5-year restriction on carrying credits forward, and the general three year restriction on offsetting past credit shortfalls as specified in the requirements of 49 CFR 535.7.

(e) Agreements among manufacturers in a control relationship related to the allocation of credits or liabilities addressed by this section shall be filed with the agency within 60 days of the end of each model year in the same form as specified in section 534.6. The manufacturers may seek confidential treatment for information provided in the certified report in accordance with 49 CFR part 512.

[69 FR 77671, Dec. 28, 2004, as amended at 74 FR 14452, Mar. 30, 2009; 76 FR 57492, Sept. 15, 2011]

§ 534.6 Reporting corporate transactions.

Manufacturers who have entered into written contracts transferring rights and responsibilities such that a different manufacturer owns the controlling stock or exerts control over the design, production or sale of automobiles or heavy-duty vehicles to which Corporate Average Fuel Economy or Fuel Consumption standards apply shall report the contract to the agency as follows:

(a) The manufacturers must file a certified report with the agency affirmatively stating that the contract transfers rights and responsibilities between them such that one manufacturer has assumed a controlling stock ownership or control over the design, production or sale of vehicles. The report must also specify the first full model year to which the transaction will apply.

(b) Each report shall—

(1) Identify each manufacturer;

(2) State the full name, title, and address of the official responsible for preparing the report;

(3) Identify the production year being reported on;

(4) Be written in the English language; and